

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Gerald Doyen,)
vs.)
Border Foods, Inc. d/b/a Taco Bell and)
White Bear Bell, LLC,)
Plaintiff,)
Defendants.)

**NOTICE OF REMOVAL TO
FEDERAL COURT**

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA; AND PLAINTIFF ABOVE-NAMED.

Defendant Border Foods, Inc. (“Border Foods”) by and through its attorneys, Winthrop & Weinstine, P.A., remove this action from the Minnesota District Court, Second Judicial District, Ramsey County, to the United States District Court for the District of Minnesota pursuant to 28 U.S.C. § 1331.

In support of its Notice for Removal, Border Foods states as follows:

Removal Procedure

1. Plaintiff Gerald Doyen (“Plaintiff”) personally served a Summons and Complaint captioned *Gerald Doyen vs. Border Foods, Inc. d/b/a Taco Bell and White Bear Bell, LLC*, State of Minnesota, Second Judicial District, County of Ramsey (the “Complaint”) upon Border Foods on January 28, 2019. A true and correct copy of the Summons and Complaint is attached hereto as **Exhibit A** as required by

28 U.S.C. § 1446(a). As of the date of this filing, the Complaint has not been filed with the Ramsey County District Court.

2. Border Foods has not answered the Complaint, and no further proceedings have taken place in the State Court Action.

3. The Complaint seeks declaratory judgment, injunctive relief, and certain nominal monetary damages and attorneys' fees arising from Border Foods and White Bear Bell, LLC's (collectively, "Defendants") alleged violation of the Americans with Disabilities Act ("ADA").

4. 28 U.S.C. § 1331 states in relevant part:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

5. The Complaint alleges violations of the ADA, which is a law of the United States. This Court therefore has Federal Question Jurisdiction over this matter.

6. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it was filed within thirty days after Border Foods received service of Plaintiff's Summons and Complaint.

7. Venue is proper in this Court for removal purposes under 28 U.S.C. §1446(a), as this Court is "the district court of the United States for the district and division" where the State Court Action is pending.

8. Concurrent with the filing of this Notice of Removal, written Notice of Removal is being given to Plaintiff and a copy of a Notice of Filing Notice of Removal is being filed with the Minnesota District Court, Second Judicial District, Ramsey County as

required by 28 U.S.C. §1446(d). A true and correct copy of the Notice of Filing Notice of Removal is attached hereto as **Exhibit B.**

9. Pursuant to 28 U.S.C. §1446(b)(2), Border Foods has conferred with Defendant White Bear Bell, LLC, and Defendant White Bear Bell, LLC consents to this removal.

10. By this Notice of Removal, Border Foods does not waive any objections it may have to this action. Border Foods intends no admissions of fact, law or liability as to Plaintiff's allegations, whether set forth in the Complaint or otherwise, and expressly reserves all defenses, motions, and pleas.

11. WHEREFORE, Border Foods hereby gives notice that the case *Gerald Doyen v. Border Foods, Inc. d/b/a Taco Bell and White Bear Bell, LLC*, is removed from the Second Judicial District, Ramsey County, Minnesota to the United States District Court for the District of Minnesota, pursuant to 28 U.S.C. §§1331, 1441, and 1446, and that all further proceedings shall be held before this Court.

Dated: February 27, 2019

WINTHROP & WEINSTINE, P.A.

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